

REMARKS

Claims 1-2, 4-9, 11-13, 15-20, and 22-42 are pending in this application. Applicant is amending herewith Claims 1, 11, 12, 22-25, 27-29, 31 and 34. Support for these amendments is found generally throughout the application. Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and the following remarks.

The Office Action:

Claims 34 and 35 were objected to as being duplicates of each other. Claims 1, 2, 4-9, 11-13, 15-20 and 22-42 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting in view of copending Application Serial No. 10/338,796. Claims 1, 2, 4-7, 9, 11-13, 15-18, 20, 22, 31-40 and 42 were rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement. Claims 11, 23-25, 28, 29, 34, 35 and 37-39 were rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement. Claims 23, 24, 37 and 38 were rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement. Claims 23, 24, 37 and 38 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant respectfully traverses the foregoing rejections.

Claim Objections:

Claims 34 and 35 were objected to as being duplicates of each other. Applicant is amending herewith Claim 34 to change its dependency to Claim 1, not Claim 11. This change corrects a typographical error in the claim. In view of this amendment, Claims 34 and 35 are no longer duplicates of each other, and applicant submits that the objection should be withdrawn.

Double Patenting:

Claims 1, 2, 4-9, 11-13, 15-20 and 22-42 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting in view of copending Application Serial No. 10/338,796. Although the present rejection is only a provisional rejection and requires no response, applicant submits that a double patenting rejection of the present claims is not appropriate. For example Claim 1 of the present application requires the presence of a catalyst. However, all of the presently pending claims in Application Serial No. 10/338,796 require "composition being substantially free of another catalyst or catalyst system for forming polyurethane" or the use of the glass cullet as a catalyst. There is not disclosure in the present application that the glass cullet can function as a catalyst. Therefore, the use of glass cullet as a catalyst is not obvious from the present application. Accordingly, a rejection of the present application based on obviousness-type double patenting in view of Application Serial No. 10/338,796 would be improper.

Rejection Under 35 U.S.C. § 112:

Claims 1, 2, 4-7, 9, 11-13, 15-18, 20, 22, 31-40 and 42 were rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement. The rejection states that application does not provide enablement for the use of plate glass and soda lime glass, and that the claims fail to exclude these glass species. Applicant is amending herewith Claims 1, 11, 12, 22-25, 27-29, and 31 to provide that the recycled glass is not derived from plate glass or soda lime glass. Applicant submits that these amendments overcome the present rejection.

Claims 11, 23-25, 28, 29, 34, 35 and 37-39 were rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement. The rejection states that the application fails to

Serial No. 10/007,178 9

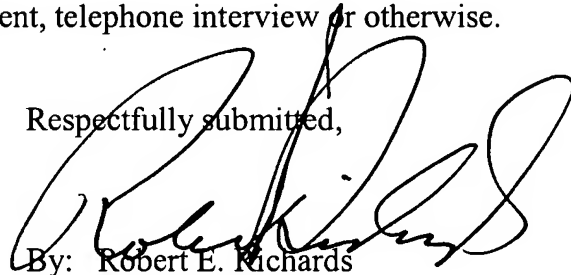
clearly set forth the relationship between particle size and the viscosity or reactivity of the composition. Applicant is amending herewith Claims 11, 23-25, 28, and 29 to provide that the class cullet is present in such an amount such that it produces the desired property. Applicant submits that these amendments overcome the present rejection.

Claims 23, 24, 37 and 38 were rejected under 35 U.S.C. § 112, first and second paragraphs, as lacking enablement and being indefinite. Applicant is amending herewith Claims 23 and 24 to specify the conditions of temperature and pressure. Applicant submits that these amendments overcome the present rejection.

Conclusion:

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and remarks. Such action is courteously solicited. Applicant further requests that the Examiner call the undersigned attorney if allowance of the claims can be facilitated by examiner's amendment, telephone interview or otherwise.

Respectfully submitted,



By: Robert E. Richards
Reg. No. 29,105

KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309
Tel: (404) 815-6500
Fax: (404) 815-6555
Our Docket: 20150-0530 (45882-265681)